

**REMARKS**

Claims 2-25 and 28-34 are pending in the application following entry of this Preliminary Amendment. Claims 1, 26, and 27 have been canceled. Claims 2-4, 6-16, 18-23, and 25 have been amended. Claims 28-34 have been added. Claims 20, 31, and 34 are the only independent claims pending following entry of this Preliminary Amendment.

No new matter is added by the amendments and additions made herein.

The Applicant has added information identifying related applications to which priority is claimed, which is administrative information required in this U.S. application.

Claims 1 and 27 have been canceled and re-written as claim 31 to emphasize that it is not critical whether the element designated the "body" or the element designated the "cover" (or some combination of the two) houses the void recited in the claim. As set forth in paragraph [0021] of the specification (for example; also compare original claims 1 and 27), what is critical is that a void is defined between the body and the cover and that the separation element is disposed within that void. Claim 26 ("kit") has been canceled and re-written as claim 34 for the same reason. Corresponding amendments were made to dependent claims 2-4, 6, 8-15, 18, and 19.

Each of claims 7, 14, 15, 20, 22, and 23 was broadened by amendment, to highlight that the items that can be separated by the claimed apparatus are not limited to "cells," but instead can be any suitably-sized "particles," as disclosed in the specification at paragraph [0022], for example. Each of newly added claims 28-31 also recites "particles," rather than the narrower embodiment of "cells."

Amendments made to each of claims 8-12, 20, and 25 clarify previous claim recitations pertaining to the "narrow passageway." The amended claims are believed to more clearly indicate the portion (i.e., "first passageway" and/or "second passageway") of the "narrow passageway" that is referred to in each of the claims. These amendments are supported at least by the claims as filed, it being clear from the recitations in the as-filed claims that the "narrow passageway"

spans both the first and second steps of the separation element, and the designations "first" and "second" being merely arbitrary names applied to these portions of the passageway.

Claim 18 has been amended to recite a single alternative of the Markush group recited in claim 18, as filed. This amendment is therefore supported by claim 18, as filed.

Claim 20 has been amended by removing reference to an independent claim and instead copying the recitation of the corresponding independent claim. Put another way, method-directed claim 20 previously depended from apparatus-directed claim 1. In order to clarify the claim language, claim 20 has been rewritten as a method-directed claim that includes the apparatus-based recitations of independent claim 31 (claim 31 replaces claim 1). The additional recitation in claim 20 pertaining to "passing a fluid from the inlet region into the outlet region" is supported in the specification, for example at paragraph [0016]. The recitation of the 'whereby' clause of claim 20 is supported by the specification, for example at paragraph [0022]. Claim 21 has been amended to recite use of a fluid displacement device (i.e., a pump or similar device), as recited in claim 4 as filed and in paragraph [0017] of the specification. Newly-added claim 29 recites separation of fetal cells from a maternal blood sample, as recited in the specification, for example at paragraph [0038]. Similarly, newly-added claim 29 recites separation of fetal stem cells from a maternal blood sample, as recited in the specification, for example at paragraph [0038].

Newly-added claim 32 recites that each of the first and second steps is defined by planar surfaces that meet at a right angle. This recitation is supported throughout the specification, for example at paragraph [0024] of the specification and in Figure 1.

#### **Suggestion Concerning Restriction**

The Applicant respectfully suggests that restriction of the claims, as amended, is inappropriate, in that all three independent claims (20, 31, and 34) pertain to the same apparatus.

Independent claim 20 recites a method of using the apparatus recited in independent claim 31, and independent claim 34 recites a "kit" comprising the un-assembled pieces of the

apparatus. The Examiner is respectfully requested to consider each of claims 2-25 and 28-34 together.

**Summary**

The Applicant respectfully contends that each of claims 2-25 and 28-34 is in condition for allowance. The Examiner is requested to issue a Notice of Allowance at the earliest possible time.

Respectfully submitted,  
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(Date)

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